

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

BRENDAN PICHA and MAX J. HASTINGS,
individually and on behalf of all others
similarly situated,

Plaintiff,

v.

GEMINI TRUST COMPANY, LLC, TYLER
WINKLEVOSS and CAMERON
WINKLEVOSS,

Defendants.

No.: 1:22-cv-10922-NRB

Hon. Naomi Reice Buchwald

**CERTIFICATION OF MAX J. HASTINGS
IN SUPPORT OF LEAD PLAINTIFF MOTION**

I, Max J. Hastings, hereby certify under penalty of perjury that the following is true and correct to the best of my knowledge, information, and belief:

1. I have reviewed the complaint filed in this action and authorize the filing of a lead plaintiff motion on my behalf.

2. I did not invest in the Gemini Earn program at issue in this action at the direction of my counsel, nor in order to participate in any private action arising under the Securities Act of 1933 (the “Securities Act”) or the Securities Exchange Act of 1934 (the “Exchange Act”).

3. I am willing to serve as a representative party on behalf of a class, including providing testimony at a deposition and trial, if necessary.

4. My principal goal in jointly filing with other individuals for lead plaintiff is to achieve the best possible recovery for the class from all culpable parties. I agree to engage in the use of collective resources and to engage in joint decision-making to materially benefit and advance the interests of the class in this case.

5. I began investing in the Gemini Earn program in or around February 2021. To the best of my knowledge, the attached **Appendix B** lists my transactions in connection with the program, which demonstrates the extent of my losses.

6. During the three-year period preceding the date of this Certification, I have not sought to serve as a representative party on behalf of a class in any private action arising under the Securities Act or the Exchange Act.

7. I will not accept any payment for serving as a representative party on behalf of the class beyond my pro rata share of any possible recovery, except for an award, as ordered by the Court, for reasonable costs and expenses (including lost wages) directly relating to my representation of the class.

8. On or about November 21, 2022, I created a group chat via the instant messaging service Telegram (the “Telegram Group”) to discuss the issues faced by investors in the Gemini Earn program (“Earn Investors”) after Gemini froze all Earn accounts on November 16, 2022. Brendan Picha was one of the first members to join the Telegram Group. I am the owner of the Telegram Group, and both Mr. Picha and myself are administrators for the group. As demonstrated by my creation and moderation of the Telegram Group, I have been taking an active leadership role in looking out for the interests of Earn Investors.

9. To date, more than 250 people have joined the Telegram Group and we have created a supportive community. We describe the Telegram Group as “representing a collaboration of Earn users and Genesis creditors negatively impacted by frozen withdrawals.” In building this community, I have had multiple conversations with members of the proposed class, including the other individuals jointly filing this motion with me.


10. Mr. Picha and I actively sought counsel to represent the interests of Earn Investors in pursuing claims against the defendants for the harms they caused, and after considering several law firms, we selected Kim & Serritella LLP (“K&S”). I understand that three additional individuals would like to serve as lead plaintiffs in this action. I have met each of them on video calls and welcome serving with them as a group of lead plaintiffs. I understand the seriousness of our role, and I believe that under the circumstances, the proposed class would benefit from a small lead plaintiff group over a single individual lead plaintiff. The Earn Investors have been extremely vocal on various social media platforms, including on the Telegram Group, due to the real harm that people have incurred. I believe that the pressure to make the correct decisions resting solely on one person could be difficult and Earn Investors would benefit from a small group making them collectively.

11. I have had multiple videos calls with K&S and have been actively engaged in decision-making in the case, including in connection with the pre-suit investigation, the filing of the complaint, the response to the defendants’ attempt to move to compel arbitration and strategy in connection with Genesis’ recent bankruptcy filing. I have also had multiple videos calls with the other lead individuals joining this motion (the “Lead Plaintiff Group”).

12. The Lead Plaintiff Group is comprised of intelligent individuals who are committed to achieving the best outcome for the class and I am confident we will all work well together. I do not anticipate any major or unresolvable disagreements between myself and the Lead Plaintiff Group and I intend to make all efforts, in good faith, to reach consensus with respect to all litigation decisions to fulfill my obligations to the class, including when necessary, consulting with K&S. However, should there be a failure to reach a consensus, the Lead Plaintiff Group has agreed to implement a protocol for resolving any disagreements, including through a simple majority vote.

This process will allow us to act efficiently on matters relating to the well-being of the class while remaining in keeping with the self-organized and democratic origins of our suit.

Dated: 02 / 25 / 2023



Max J. Hastings

APPENDIX B– HASTINGS CERTIFICATION***BITCOIN CASH**

Gemini Earn Transactions			
Date	Time	Transaction	Token Amount
2/9/2021	3:48:24 PM	Investment	10
2/9/2021	5:32:58 PM	Investment	290.423
2/9/2021	5:36:42 PM	Investment	1.97654
2/10/2021	2:31:43 PM	Investment	2.04492
2/10/2021	4:21:33 PM	Investment	2.05013
2/10/2021	9:01:25 PM	Investment	10.3373
2/10/2021	9:02:29 PM	Investment	0.01026
2/22/2021	7:16:33 AM	Investment	10.2582
2/22/2021	9:34:09 PM	Investment	1.58494
2/23/2021	3:47:48 AM	Investment	8.46278
2/23/2021	4:55:14 PM	Investment	5.90235
2/28/2021	9:00:00 PM	Monthly Interest Summary	0.70850095
3/12/2021	5:00:21 AM	Investment	0.50393
3/31/2021	8:00:00 PM	Monthly Interest Summary	1.30276738
4/7/2021	2:59:55 AM	Investment	1.88169
4/19/2021	8:20:39 PM	Investment	0.24748
4/22/2021	9:23:50 PM	Investment	0.23123
4/30/2021	8:00:00 PM	Monthly Interest Summary	1.2719375
5/7/2021	6:30:56 AM	Investment	0.03125
5/7/2021	4:43:38 AM	Redemption	0.03125
5/14/2021	6:36:33 PM	Investment	0.3804

5/15/2021	3:15:21 AM	Investment	0.38829
5/16/2021	9:36:19 PM	Investment	0.90592
5/16/2021	11:06:55 PM	Investment	0.00087
5/17/2021	4:08:00 AM	Investment	0.9985
5/22/2021	7:52:00 PM	Investment	0.35202
5/31/2021	8:00:00 PM	Monthly Interest Summary	1.25243478
5/31/2021	5:59:44 PM	Redemption	0.625
6/3/2021	1:56:52 PM	Investment	0.87
6/3/2021	3:53:21 AM	Redemption	0.15
6/3/2021	4:44:22 AM	Redemption	0.72
6/15/2021	10:13:03 PM	Redemption	0.625
6/30/2021	8:00:00 PM	Monthly Interest Summary	1.218844535
6/30/2021	8:34:17 PM	Redemption	0.625
7/15/2021	5:17:25 PM	Redemption	0.625
7/30/2021	3:19:16 AM	Redemption	0.625
7/31/2021	8:00:00 PM	Monthly Interest Summary	1.259360224
8/15/2021	2:06:42 PM	Redemption	0.625
8/27/2021	1:01:05 AM	Redemption	0.26
8/27/2021	1:13:25 AM	Redemption	0.3
8/31/2021	8:00:00 PM	Monthly Interest Summary	1.259215249
9/1/2021	5:32:50 AM	Redemption	1
9/4/2021	2:35:31 AM	Investment	0.675
9/15/2021	4:59:46 PM	Redemption	0.625
9/30/2021	8:00:00 PM	Monthly Interest Summary	1.217534996
10/20/2021	10:38:42 PM	Investment	1.54544
10/31/2021	8:00:00 PM	Monthly Interest Summary	1.263761656
11/3/2021	10:26:07 PM	Investment	3.26359

11/19/2021	3:44:59 AM	Investment	3.62329
11/30/2021	9:00:00 PM	Monthly Interest Summary	1.245283574
12/6/2021	1:41:14 AM	Investment	1.12
12/10/2021	7:13:20 AM	Investment	4.47263
12/11/2021	3:24:36 AM	Investment	4.42932
12/31/2021	9:00:00 PM	Monthly Interest Summary	1.32430885
1/18/2022	5:15:50 PM	Investment	2
1/29/2022	5:32:54 AM	Redemption	28.6
1/31/2022	9:00:00 PM	Monthly Interest Summary	1.255163654
2/1/2022	8:43:23 PM	Investment	28.6
2/3/2022	12:31:31 AM	Investment	5
2/3/2022	1:35:46 AM	Investment	20
2/28/2022	9:00:00 PM	Monthly Interest Summary	1.534036613
3/31/2022	1:42:22 AM	Investment	1.29219
3/31/2022	4:01:52 AM	Investment	30
3/31/2022	8:00:00 PM	Monthly Interest Summary	1.721001497
4/16/2022	11:46:29 PM	Investment	10
4/30/2022	8:00:00 PM	Monthly Interest Summary	1.890450698
5/6/2022	2:50:09 AM	Investment	1.81488
5/6/2022	5:04:52 PM	Investment	8
5/7/2022	2:53:10 AM	Investment	36.5024
5/7/2022	1:12:27 PM	Investment	5
5/11/2022	8:07:57 PM	Investment	50.1005
5/13/2022	3:15:53 PM	Redemption	52.3642
5/16/2022	11:20:19 PM	Investment	54.3722
5/23/2022	2:59:06 AM	Redemption	55
5/24/2022	4:59:04 PM	Investment	55

5/25/2022	11:41:48 PM	Redemption	55
5/31/2022	8:00:00 PM	Monthly Interest Summary	2.193070659
6/3/2022	3:42:06 AM	Investment	50.1866
6/14/2022	2:45:25 AM	Investment	23.2913
6/15/2022	11:31:47 PM	Investment	7.81727
6/30/2022	8:00:00 PM	Monthly Interest Summary	2.402227235
7/2/2022	12:35:25 AM	Redemption	584.551
7/15/2022	9:32:25 PM	Investment	601.237
7/27/2022	11:04:09 PM	Redemption	2
7/31/2022	8:00:00 PM	Monthly Interest Summary	1.19429926
8/13/2022	3:21:36 AM	Redemption	1.37303
8/24/2022	10:14:58 PM	Redemption	1.02458
8/31/2022	8:00:00 PM	Monthly Interest Summary	2.632998825
8/31/2022	6:50:06 PM	Redemption	100
9/6/2022	8:20:07 PM	Investment	100
9/30/2022	8:00:00 PM	Monthly Interest Summary	2.467326313
10/16/2022	7:32:24 AM	Redemption	4.33
10/31/2022	8:00:00 PM	Monthly Interest Summary	2.654029745
11/6/2022	4:41:29 AM	Redemption	1.8
11/15/2022	9:00:00 PM	Monthly Interest Summary	1.281374256
11/16/2022	10:29:52 AM	Redemption	600.856
BITCOIN CASH		Remaining Earn Balance = 600.8564784	
		Total Realized Losses = \$83,759.39	

***All attempted redemptions on November 16, 2022 were not fulfilled by Gemini and therefore such attempted redemptions are not included in this schedule.**

***Losses are based on market value as of February 24, 2023.**